

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

DOROTHY BROCK-BURCHETT

PLAINTIFF

v.

No. 4:20-cv-374-DPM

MCNEW FABRICATION, INC.
and JEFFREY MCNEW

DEFENDANTS

ORDER

Brock-Burchett worked for McNew Fabrication, Inc., and Jeffrey McNew as an office manager from March 2016 through November 2019. She presses claims against her former employers under the Fair Labor Standards Act, and the Arkansas Minimum Wage Act, for unpaid overtime. 29 U.S.C. § 207(a)(1); ARK. CODE ANN. § 11-4-211(a). She seeks partial summary judgment on the inapplicability of certain exemptions that, if proved, would defeat her claims. 29 U.S.C. § 213(a)(1); *see also* ARK. CODE ANN. § 11-4-211(d) (incorporating the FLSA's exemptions). It is common ground that neither the executive nor professional exemptions apply to Brock-Burchett. Because she is the moving party, where there is a genuine dispute of material fact, the Court views the record in the light most favorable to McNew and McNew Fabrication. *Oglesby v. Lesan*, 929 F.3d 526, 532 (8th Cir. 2019).

The fighting issue is the applicability of the administrative exemption, which has three requirements. 29 C.F.R. § 541.200(a)(1)–(3). McNew and McNew Fabrication acknowledge that they must demonstrate the exemption’s applicability to this employee. *Encino Motorcars, LLC v. Navarro*, 138 S. Ct. 1134, 1142 (2018). Brock-Burchett says, in her declaration, that she had little or no discretion as office manager; she was mostly a bookkeeper. *Doc. 22-1*. McNew responds, in his declaration, that Brock-Burchett had wide discretion over all financial matters at the company, and for him personally, plus she hired and supervised others to help on these tasks. *Doc. 29-1*. Genuine issues of material fact therefore exist on whether Brock-Burchett’s primary job duties included exercising discretion and independent judgment. 29 C.F.R. § 541.200(a)(3); *Grage v. Northern States Power Co.-Minnesota*, 813 F.3d 1051, 1057–58 (8th Cir. 2015).

Brock-Burchett’s motion, *Doc. 22*, is granted on the executive and professional exemptions and denied on the administrative exemption.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

17 August 2022